

IN THE HIGH COURT OF JUDICATURE AT MADRAS

(Criminal Jurisdiction)

Thursday, the Twelfth day of September Two Thousand Nineteen

PRESENT

The Hon`ble Mr Justice A.D.JAGADISH CHANDIRA

CRIMINAL MISCELLANEOUS PETITION Nos.13011 & 13013 of 2019

IN

CRL.RC.NO.906/2019

S.PURUSOTHAMAN

[PETITIONER/PETITIONER,
APPELLANT/ACCUSED]

Vs

A.MURALI

[RESPONDENT/RESPONDENT
RESPONDENT/COMPLAINANT]

Petitions praying that in the circumstances stated therein and in the Memorandum of Grounds in Crl.RC.No.906/2019 on the file of the High Court, the High Court will be pleased to

[i] suspend the sentence imposed in C.C.No.2852/2012 on the file of IV Fast Track Judge, George Town, Chennai vide judgment dated 30.11.2015 and the same was confirmed by the 1st Appellate Court in C.A.No.2 of 2016 on the file of Ist Additional Sessions Judge, City Civil Court, Chennai-104, in Crl.RC.NO.906/2019. [IN CRL.MP.NO.13011/2019]

[i] exempt the petitioner to surrender before the Appellate Court on the judgment dated 20.02.2019 made in C.A.No.2 of 2016 against C.C.No.2852/2012 on the file of IV Fast Track Judge, George Town, Chennai vide judgment dated 30.11.2015, in Crl.RC.NO.906/2019. [IN CRL.MP.NO.13013/2019]

Order : These petitions coming on for orders upon perusing the petition and the Memorandum of Grounds in Crl.RC.No.906/2019 on the file of the High Court and upon hearing the arguments of M/S. B.MANIMARAN, Advocate for the petitioner the court made the following order:-

1.This Criminal Miscellaneous Petition has been filed to suspend the sentences, imposed on the Petitioner/Accused in CC.NO.2852/2012, by the learned IV Fast Track Judge, George Town, Chennai by judgement, dated 30.11.2015, confirming the conviction imposed in Judgment dated 20.02.2019 in C.A.No.2/2016, on the file of the learned I Additional Sessions Judge, City Civil Court, Chennai-104 and to enlarge the Petitioner/Accused on bail, pending disposal of the above Criminal Revision Case.

- 2.Crl.MP.No. 13013 of 2019 has been filed for exempting the Petitioner from his surrender, pursuant to the judgement of conviction and sentence, passed by the learned I Additional Sessions Judge, City Civil Court, Chennai-104 by judgement dated 20.02.2019, pending disposal of the criminal revision case.
- 3.This court heard the learned counsel on either side and also perused the materials placed on record.
- 4.The facts, in a nutshell, are that, the petitioner/accused herein had borrowed a sum of Rs.5,00,000/- from the respondent as a hand loan, promising to repay the same within a stipulated time and to discharge the said liability, on 14.08.2012 the petitioner had issued a cheque drawn on SBI Bank, Thiruvottiyur Branch, Chennai for a sum of Rs.5,00,000/- bearing No.887183. When the said cheques were presented on the same day through Corporation Bank, George Town, Chennai, for encashment, that was returned unpaid on the ground of insufficient funds. Hence, a legal notice dated 22.02.2012 was issued by the complainant. The notice was received by the petitioner on 24.08.2012 and even after receipt of the same the petitioner neither paid the said amount nor sent any reply. Hence, the complainant had filed a complaint for the offence under Section 138 of the Negotiable Instruments Act, before the Judicial Magistrate, FTC No.IV, George Town, Chennai in CC.N.2852/2012, wherein the Petitioner/Accused was found guilty for the offence under Section 138 of the Negotiable Instruments Act and convicted and sentenced him to undergo one year Simple Imprisonment and to pay a sum of Rs.5,00,000/- (Rupees Five lakhs Only) towards compensation. As against the said judgement of conviction and sentence, the Petitioner/Accused had preferred an appeal in CA.No.2 of 2016, before the I Additional Sessions Court, City Civil Court, Chennai and the said appeal was dismissed, by the impugned judgment. Hence, the above Criminal Revision Case has been filed, along with above Crl.MP, seeking the relief as stated above.
- 5.The learned counsel for the Petitioner/accused would submit that there are arguable points available in the Criminal Revision Case and that the revision petitions is not likely to be taken for final hearing in the near future and that the Petitioner has got a fair chance of succeeding in the Criminal Revision Case and would pray that the substantive sentence imposed against the Petitioner/Accused may be suspended. He would further submit that the petitioner is a senior citizen and that the cheque has been misused in a chit transaction. Though evidence has been let in by him to rebut the presumption under law the courts below, have not considered the evidence in the proper perspective. However, he would submit that without prejudice his contention the petitioner is prepared to pay 25% of the cheque amount, pending revision.
- 6.Considering the facts and circumstances of the case and also considering the submissions of the learned counsel on either side, this Court is of the view that the substantive sentences of imprisonment alone can be suspended on certain conditions.

Accordingly, the substantive sentence of imprisonment imposed on the Petitioner/Accused alone is hereby suspended, till the disposal of the Criminal Revision Cases and the Petitioner/Accused is hereby ordered to be enlarged on bail on the following conditions :-

- a) The Petitioner/ Accused shall deposit Rs.2,00,000/- (Rupees two Lakhs only) before the Trial Court, within four weeks from the date of receipt of a copy of this order and on such deposit being made the Trial Court shall redeposit the said amount in a fixed deposit account in any nationalised bank, so that the amount accrues interest. The disbursal of this amount shall be decided at the culmination of the revision petition. Thereafter, the Petitioner/ Accused is ordered to be released on bail, on his executing a bond for a sum of Rs.10,000/- (Rupees ten thousand only) with two sureties, of whom, one should be a blood relative, each for a like sum to the satisfaction of the Metropolitan Magistrate, FTC-IV, George Town, Chennai.
- b) The Petitioner/Accused and the sureties shall affix their photographs and Left Thumb Impressions in the surety bonds and the Magistrate may obtain a copy of his Aadhaar Card or Bank pass Book to ensure his identities.
- c) The Petitioner/ Accused shall appear before the Trial Court at 10.30 a.m. on the first working day of every month, until the disposal of the revision petition and if he is not able to appear before the Trial Court on any day, he shall make arrangements to file an application under Section 317 of Cr.PC. and shall appear before the Trial Court on any other day in lieu of the date of his absence, as directed by the Trial Court.
- d) On the failure of the Petitioner/Accused, depositing the said amount, it is open to the Trial Court to commit the Petitioner/ Accused into custody for undergoing the sentence.

7. Post the matter on 16.10.2019 for reporting compliance.

-sd/-
12/09/2019

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 IST ADDITIONAL SESSIONS JUDGE
CITY CIVIL COURT, CHENNAI-104

2 THE METROPOLITAN MAGISTRATE
FAST TRACK COURT-IV,
GEORGE TOWN, CHENNAI.

3 THE CHIEF METROPOLITAN MAGISTRATE,
EGMORE, CHENNAI [FOR INFORMATION]

C.C. to M/S.B.MANIMARAN Advocate on payment of necessary
charges SR.No.19130

Order

in

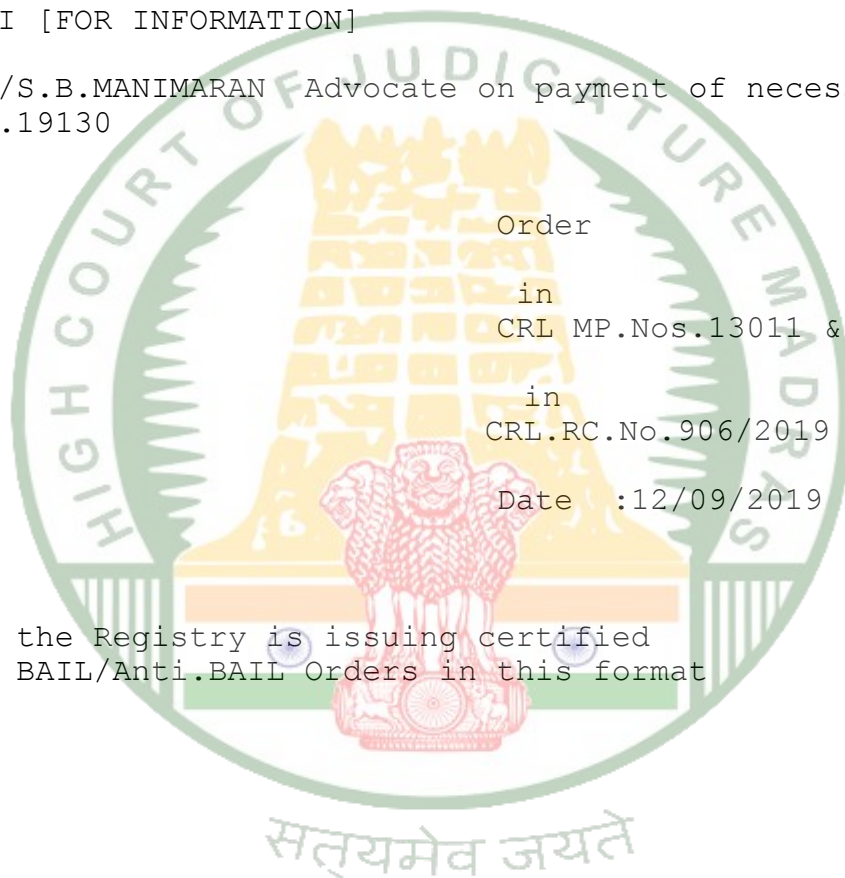
CRL MP.Nos.13011 & 13013/2019

in

CRL.RC.No.906/2019

Date :12/09/2019

From 7.2.2001 the Registry is issuing certified
copies of the BAIL/Anti.BAIL Orders in this format
cs 17/09/2019



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